

CCRB INVESTIGATIVE RECOMMENDATION

| | | | | | |
|--|--|-------------------------------------|--|------------------------------------|---------------------------------|
| Investigator: Eliana Behar | Team: Squad #1 | CCRB Case #: 201908981 | <input type="checkbox"/> Force | <input type="checkbox"/> Discourt. | <input type="checkbox"/> U.S. |
| | | | <input checked="" type="checkbox"/> Abuse | <input type="checkbox"/> O.L. | <input type="checkbox"/> Injury |
| Incident Date(s) Sunday, 10/13/2019 9:34 AM | Location of Incident: 74th Street and Broadway Subway station | Precinct: 110 | 18 Mo. SOL 4/13/2021 | EO SOL 11/28/2021 | |
| Date/Time CV Reported Sun, 10/13/2019 9:34 AM | CV Reported At: CCRB | How CV Reported: On-line website | Date/Time Received at CCRB Sun, 10/13/2019 10:11 AM | | |

| Complainant/Victim | Type | Home Address |
|--------------------|------------|--------------|
| [REDACTED] | [REDACTED] | [REDACTED] |

| Subject Officer(s) | Shield | TaxID | Command |
|--------------------|--------|--------|---------|
| 1. POM Leechau Wai | 14815 | 953546 | TB DT20 |

| Witness Officer(s) | Shield No | Tax No | Cmd Name |
|------------------------|-----------|--------|----------|
| 1. POM Angelo Morsello | 20961 | 953144 | TB DT20 |

| Officer(s) | Allegation | Investigator Recommendation |
|-------------------|---|-----------------------------|
| A.POM Leechau Wai | Abuse: Police Officer Leechau Wai stopped § 87(2)(b) [REDACTED] | [REDACTED] |
| B.POM Leechau Wai | Abuse: Police Officer Leechau Wai failed to provide § 87(2)(b) [REDACTED] with a business card. | [REDACTED] |

Case Summary

§ 87(2)(b) filed this complaint with the CCRB via the online website on October 13, 2019.

On October 13, 2019, at 9:34am, § 87(2)(b) entered the 74th Street and Broadway subway station in Queens with his bicycle. PO Lee Chau Wai, from Transit District 20, stopped § 87(2)(b) (Allegation A—Abuse of Authority: § 87(2)(g)). At the conclusion of the stop, PO Wai did not provide a business card to § 87(2)(b) (Allegation B—Abuse of Authority: § 87(2)(g)).

There is video footage from PO Wai's body-worn camera for this incident (Board Review 03).

Findings and Recommendations

Allegation (A) - Abuse of Authority: Police Officer Lee Chau Wai stopped § 87(2)(b).

It is undisputed that PO Wai stopped § 87(2)(b) for suspicion of entering the subway station without paying.

§ 87(2)(b) stated that he entered the subway station with his bicycle, swiped his Metro Card at the vertical turnstile, and walked through. He then retrieved his bicycle by opening the emergency gate and bringing it through the gate. PO Wai called him over, as he walked down a ramp towards the train, and asked him how he entered the station. PO Wai asked to see § 87(2)(b)'s Metro Card. § 87(2)(b) provided it. PO Wai looked at the Metro Card, returned it, and let § 87(2)(b) go (Board Review 01).

PO Wai was on train patrol when he saw § 87(2)(b) walk through the emergency gate with his bicycle. He did not first see him swipe a metro card through the turnstile. Based on this observation, PO Wai suspected § 87(2)(b) committed theft of service and asked him whether he paid and to see his Metro Card. § 87(2)(b) stated that he paid the fare and handed his metro card to PO Wai. PO Wai confirmed that the card was not expired and thus took § 87(2)(b)'s word that he paid. PO Wai subsequently let him go (Board Review 02). PO Angelo Morsello, PO Wai's partner, saw PO Wai interact with § 87(2)(b) but did not see how he gained access to the station (Board Review 10).

In PO Wai's BWC video he tells § 87(2)(b) at 0:50 that he is being detained and asks § 87(2)(b) if he paid his fare. PO Wai then asks § 87(2)(b) to show him his MetroCard, which § 87(2)(b) did. PO Wai looked at the card, gave it back to § 87(2)(b) and let him go (Board Review 03).

According to *People v. DeBour*, 40 N.Y.2d 201 (1976) an officer can stop and detain an individual when there is reasonable suspicion that the individual has committed a crime (Board Review 04.) According to Penal Law 165.15(3) a person is guilty of theft of services, a class A misdemeanor, when a person intends to use a public transportation service without payment of the lawful charge (Board Review 08).

§ 87(2)(g)

§ 87(2)(g) [Redacted]
[Redacted]
[Redacted]

Allegation (B) - Abuse of Authority: Police Officer Lee Chau Wai failed to provide § 87(2)(b) [Redacted] with a business card.

PO Wai acknowledged that he did not provide § 87(2)(b) [Redacted] with a business card at the end of their interaction. PO Wai stated that he had business cards on him at the time of the incident, but he did not believe he had to give § 87(2)(b) [Redacted] a card. PO Wai considered the interaction to be a daily routine check to make sure customers swipe their card and pay, not a detainment for a serious offense.

According to New York City Administrative Code §14-174, a business card must be offered at the end of law enforcement activity. During law enforcement activity, such as a pedestrian stop, an officer must offer a business card at the conclusion of the encounter if it does not result in an arrest or summons (Board Review 09).

§ 87(2)(g) [Redacted]
[Redacted]

Civilian and Officer CCRB Histories

- § 87(2)(b) [Redacted]
[Redacted]
[Redacted]
 - [Redacted]
[Redacted]
 - [Redacted]
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 - [Redacted]
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- [REDACTED]
[REDACTED]
[REDACTED]
 - [REDACTED]
■ [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
 - [REDACTED]
[REDACTED]
- PO Lee Chau Wai has been a member of service for seven years and has been a subject in four CCRB cases and six allegations, none of which were substantiated. § 87(2)(g) [REDACTED]
[REDACTED]

Mediation, Civil, and Criminal Histories

- § 87(2)(b) [REDACTED] declined to mediate this complaint.
- As of December 20, 2019, the New York City Office of Comptroller has no record of a Notice of Claim being filed regarding this complaint (Board Review 07).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)] [REDACTED]
[REDACTED]
[REDACTED] ■ [REDACTED]
[REDACTED]
[REDACTED]

Squad No.: _____

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date